

IGNAZ GOLDZIHNER



# The Zāhirīs

*Their Doctrine and their History*

*A Contribution to the History of Islamic Theology*

TRANSLATED AND EDITED BY WOLFGANG BEHN

WITH AN INTRODUCTION BY CAMILLA ADANG

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## The Zāhirīs

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## IGNAZ GOLDZIHNER AND THE ZĀHIRĪS

### *Introduction*

This reprint of the English translation of Ignaz Goldziher's monograph on the Zāhirī or literalist school of law is indicative of the lasting interest in the oeuvre of this grand master of oriental studies on the one hand, and a renewed interest in the Zāhirīs on the other.

Ignaz Goldziher (1850–1921) was somewhat of a legend already in his own lifetime, and the interest in his work and his person has never waned. Regarded by many as the one who almost single-handedly laid the foundations of the study of Islam as an independent academic discipline, he wrote a series of ground-breaking works covering virtually all aspects of that religion, such as law, exegesis, theology, sectarianism, and relations with other faiths, besides Arabic language and literature. There is hardly a topic in the field on which Goldziher has not left an indelible mark, and it is therefore not surprising that many of his writings were reprinted and translated into various languages, which even further enhanced their impact. Goldziher's major contribution to the field was acknowledged in the *Festschriften* that were offered to him in 1912 and 1920, and in a series of memorial volumes, the latest of which dates from 2005.

Apart from the innovative character and the sheer volume and scope of Goldziher's work, scholars do not cease to be fascinated by his complex personality as glimpsed from his diaries and from the thousands of letters he exchanged with colleagues, beginning and established scholars alike. Several books and dozens of articles have been devoted to Goldziher's biography, which renders it superfluous to present more than some basic facts here.<sup>1</sup>

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<sup>1</sup> The latest addition to the ever growing list of Goldziheriana is Peter Haber, *Zwischen jüdischer Tradition und Wissenschaft. Der ungarische Orientalist Ignaz Goldziher*.



## Ignaz Goldziher

Born in 1850 in the Hungarian town of Székesfehérvár into an established Jewish family, Ignaz Goldziher soon developed a voracious appetite for books, an appetite that was encouraged by his father, who hired private teachers under whose guidance the boy learned to read the Hebrew Bible at the age of five, and the Talmud when he was eight. He was twelve years old when he published his first booklet, dealing with the origins and times of Jewish prayer. At sixteen he was already enrolled at the University of Budapest, where he attended the classes of Arminius Vámbéry, who took him under his wing but with whom he fell out in later years.<sup>2</sup> He took courses on a dazzling array of disciplines and languages, and those that did not form part of the curriculum he learned under his own steam or together with some fellow-students.

In 1868 Goldziher received a stipend from the Minister of Education, Baron József Eötvös, which enabled him to study in Germany. After spending some months in Berlin, where he felt miserable, Goldziher moved on to Leipzig, where he joined the circle of students of the doyen of Semitic studies at the time, H.L. Fleischer. Under his supervision and inspiration, Goldziher completed his doctoral thesis in less than two years.

In 1871 Goldziher had an opportunity to spend six months in Leiden, a period which he describes fondly in his *Tagebuch*. Despite his youth, he greatly impressed a number of leading Dutch Orientalists, such as Dozy and De Goeie. Goldziher spent most of his days in the library, and even at night he was mostly occupied with the manuscripts that he was allowed to take with him. The effort paid off: many of his later publications were based on the notes he took and the passages he copied from the manuscripts of the Warner Collection, and which he generously shared with his readers. The period in Leiden was in

(1850–1921). *Lebenswelten osteuropäischer Juden*, 10] Köln, Weimar, Wien: Böhlau, 2006, with a detailed bibliography listing most previous publications. Virtually the only discordant voice in the chorus of Goldziher's admirers is Raphael Patai, who has some rather unflattering things to say in the psychological portrait preceding his translation of Goldziher's Oriental diary (*Ignaz Goldziher and His Oriental Diary: A Translation and Psychological Portrait*, Detroit: Wayne State University Press, 1987).

<sup>2</sup> On their complex relationship, see Lawrence I. Conrad, "The Dervish's Disciple: On the Personality and Intellectual Milieu of the Young Ignaz Goldziher," *Journal of the Royal Asiatic Society* 1990, 225–266.

many respects a formative one. It is here, he writes, that Islam became the focus of his scholarly endeavours. Up to this point, he had worked mainly on topics related to Judaism and Arabic philology. Now, however, he immersed himself into the study of *Ḥadīth*, to which he was to devote some of his most important and influential studies. And it was in this same period, he says, that he first read Ibn Ḥazm, through whom he became acquainted with polemical literature, as well as with the *Zāhirī* school, to which this author belonged.

Among the manuscripts which he perused with more than usual interest were the two volumes of Ibn Ḥazm's *Kiṭāb al-Miṭal wa-l-Niḥal*, a heresiographical tract of which Goldziher was later able to consult another copy in Vienna. Even though this work provides valuable information on a host of sects and denominations within Islam, and would serve him as a source for many of his publications on different aspects of Muslim belief and misbelief, as well as for the present book on the *Zāhirīs*, Goldziher's attention seems initially to have been drawn especially by the lengthy polemic against Judaism included in the work. In 1872 he published a substantial section from it containing Ibn Ḥazm's strictures against the Talmud.

Goldziher had been given to understand by Baron Eötvös that upon finishing his habilitation, which he completed in 1871, he would receive a chair at the University of Budapest. Much to his dismay, this did not materialize, and his hopes were dashed when his patron died and no one else was prepared to plead the young doctor's case. It may be assumed that what stood in the way of Goldziher's appointment was not only his age—he was after all only twenty-one at the time—but also the fact that he was Jewish. For the time being he therefore had to content himself with teaching the occasional course at the university and the Calvinist Theological Faculty as a *Privatdozent*.

In September 1873 Goldziher was able to travel to the Middle East, again with a grant from the Ministry of Education. He embarked first to Istanbul, then briefly to Beirut, on to Damascus and finally to Cairo. His profound knowledge of Turkish and Arabic stood him in good stead, and while up to this point his acquaintance with Islam had been purely theoretical, he was now able to experience it as a living faith with profound roots in the past.<sup>3</sup> It was Cairo that had the greatest

<sup>3</sup> See, apart from the edition by Patai mentioned in note 1, also Lawrence I. Conrad, "The Near East Study Tour diary of Ignaz Goldziher," *Journal of the Royal Asiatic Society* 1990, 105–126; *id.*, "The Pilgrim from Pest: Goldziher's Study Tour to the Near East



impact on him. He obtained permission to enroll at al-Azhar, being the first non-Muslim to be granted this privilege, which was accorded to him only after he had persuaded the Rector and other senior sheikhs that he was sincerely interested in expanding his knowledge of Islam. Goldziher felt an emotional and intellectual affinity with the religion, but though he had his most profound experience of monotheism ever while clandestinely participating in the Friday prayer at a Cairo mosque, he never seems to have considered the option of converting to Islam.

In April 1874 Goldziher returned to Hungary and needed to take a decision about his future. The prospects of obtaining a chair in Budapest had not improved, despite the fact that he had published widely. Rather than accepting any of the prestigious positions that were offered him abroad, however, Goldziher decided to remain in his beloved country, even though this meant having to forgo a career within the academic establishment. Instead, he became secretary of the Neolog Jewish community of Pest. In his *Tagebuch*,<sup>4</sup> which he started writing at the age of forty but in which he also takes stock of his life up to that point, he describes the suffering he experienced in this demanding and in his eyes demeaning position. He resents his employers for depriving him of the time to read and write, and for treating him as a humble clerk, a slave almost, as he states dramatically. As a result, his attitude towards the Jewish community of Budapest became ambivalent, to put it mildly, despite his personal attachment to the Jewish faith. It was only in 1904, when he was finally offered the long-awaited full professorship in Budapest, that Goldziher resigned from his position.

The highlights of Goldziher's life were the conferences abroad which gave him an opportunity to meet his colleagues. One such occasion was the 6th Conference of Orientalists of 1883 in Leiden. Since his last visit to that city, in 1871, he had achieved much. Despite the fact that his position as secretary to the Jewish community left him little time for scholarship, he had managed to produce an impressive series of articles and books. On a personal level, his life had become much happier since he had got married. In his *Tagebuch* he relates that in December 1877 he had left Budapest to make the acquaintance of his future wife, Laura Miltner, a meeting apparently prearranged by both

families. He mentions that he was loath to abandon his desk with its heaps of notes from Ibn Ḥazm and other polemicists, and that it was only because of the pressure put on him by his mother and his own desire briefly to escape his duties at the office, that he finally consented to "go and meet a girl".

At the Leiden conference, Goldziher presented an extensive summary of his book on the Zāhirīs, which was to appear in Leipzig several months later. According to the *compte-rendu* of the session, he managed to discuss the conflict between *ahl al-ra'y* and *ahl al-hadith*, Dāwūd al-Zāhirī's approach to the Qur'an and Ḥadīth, the difference between his hermeneutical principles and those of his predecessors, Ibn Ḥazm's attempts to apply these principles to dogmatics, and the history of the *madhhab* from its founder, Dāwūd, up to al-Maqrīzī. This more or less covers the entire book. An Arab participant who attended the lecture was much taken by the fact that Goldziher added the customary Arabic eulogies after the name of the Prophet Muḥammad and those of famous Muslim scholars.

### *The Zāhirīs*<sup>5</sup>

The work presented here is not usually cited as one of Goldziher's most important writings, pride of place being taken by his *Muhammedanische Studien* (1889–1890), *Vorlesungen über den Islam* (1910) and *Die Richtungen der islamischen Koranauslegung* (1920). Yet it is a milestone not only in the career of Goldziher himself, but also in the study of Islamic law. For despite what is perhaps suggested by its title, the book is much more than a description of the rise and decline of an ephemeral *madhhab* that had virtually ceased to exist by the 15th century CE; rather, it is one of the first scholarly discussions of *uṣūl al-fiqh* in a western language. Goldziher emphasizes this himself in his *Tagebuch*, where he declares himself to be quite pleased with the work. He adds that it gained him the respect of colleagues in Germany and led a number of eminent scholars to start a correspondence with him. At

(1873–1874)<sup>3</sup>, in: Ian Richard Netton (ed.), *Golden Roads: Migration, Pilgrimage and Travel in Medieval and Modern Islam*. Richmond: Curzon Press, 1993, 110–159.

<sup>4</sup> Ignaz Goldziher, *Tagebuch*, ed. Alexander Scheiber. Leiden: E.J. Brill, 1978.

<sup>5</sup> Both in the German original and in the English subtitle of the book, the term "theology" is used. This is somewhat misleading, for the subject matter of the work is first and foremost, though by no means exclusively, Islamic law. However, the term covers both law (which Goldziher calls *Gesetzwissenschaft*) and theology proper (which he calls *Dogmatik*).



the same time, however, it obviously did not have the impact he had hoped for: in a letter from 1895 to Martin Hartmann of Berlin, who tried to encourage him to write a much-needed monograph on *usūl al-fiqh*—for hadn't he already gathered much material on that topic in his book on the Zāhirīs—Goldziher states that as much as he would like to write such a volume, there does not seem to be much interest among his colleagues in *usūl al-fiqh*; the Zāhirī book had been regarded as a mere curiosity.

The reason for the limited success of the work may be the fact that it was simply eclipsed by Goldziher's later writings of a more general interest, especially his *Vorlesungen*. This work, which is regarded by many as the first textbook on the religion of Islam, contains a lengthy chapter on the development of Islamic law in which a synthesis is given of its history and contents. Moreover, Goldziher's well-known scepticism with regard to the historicity of sayings attributed to the Prophet Muḥammad, which can be encountered in *Die Zāhirīen* (where the term "pious fraud" is already used), was argued more forcefully and coherently in the second volume of his *Muhammedanische Studien*.

Among the Zāhirīs that Goldziher was able to trace in historical chronicles, geographical descriptions, legal tracts and *ṭabaqāt* works—many of them still unpublished at the time—he pays a great deal of attention to Ibn Ḥazm. This was inevitable, for no work by any Zāhirī other than Ibn Ḥazm had come to light.<sup>6</sup> And whereas over twenty works by Ibn Ḥazm are now available in print that Goldziher had never heard of, or that he presumed were lost forever when his books were burned in Seville towards the end of his life, the author of *Die Zāhirīen* had to make do with two works by the famous Andalusī literalist as well as with some non-Zāhirī sources, not all of them sympathetic, such as al-Nawawī's *Sharḥ* to Muslim's *Saḥīḥ*. This obviously has certain implications for the reliability and scope of Goldziher's information on the *madhhab*, and despite the fact that his comments are mostly amazingly close to the mark, he sometimes overstates his case.

Because Goldziher only had Ibn Ḥazm's *Kitāb al-Mīl wa-Nihāl* and (*Muḥlikhaṣ*) *Ṭīl al-ḡiyās* at his disposal and not, for example, his *Muḥalla* (a part of which became available to him only after completion of the manuscript of *Die Zāhirīen*), he was understandably led to regard Ibn

Ḥazm as a narrow-minded bigot who moreover harboured a "fanatical enmity against everything non-Islamic". This judgement is based mainly on Ibn Ḥazm's notoriously virulent polemic against Judaism in his heresiographical work, which had been studied by Goldziher in Leiden. However, what Goldziher does not seem to have realised—and again, this is only to be expected given the limited number of works at his disposal—is that Ibn Ḥazm is inclined to adapt his tone to the subject, agenda and readership of each of his works. When he polemizes against the Jews, he lashes out at them, taking sides with the Christians, but when the Christians are the ones under attack, it is the Jews who are treated more sympathetically. The same goes for his discussion of Islamic sects and schools of law. In his *Muḥalla*, which is an exposition of Zāhirī law, the ones with whom he takes issue are Abū Ḥanifa, Malik b. Anas and, to a lesser extent, al-Shāfiʿī, to whose teachings he had himself adhered some time. We find no negative comments about *dhimīs* here; on the contrary, one is perhaps surprised to discover that from Ibn Ḥazm's literalist perspective, non-Muslims, though ritually impure as long as they do not convert, may touch a copy of the *Qurʾān*, or that non-Muslims, even Zoroastrians, may perform ritual slaughter for the Muslim believers. From different sections of the *Muḥalla* which were not available to Goldziher we learn that in Ibn Ḥazm's view, Muslims were allowed to enter into commercial partnerships with non-Muslims, and that they were allowed to dress, and even to pray, in clothes belonging to unbelievers. Needless to say, these statements, even if they are purely theoretical, completely contradict Goldziher's assumption of fanatical intolerance. Similar "humane" attitudes (which we would be mistaken to call liberal, it must be added) may be encountered in Ibn Ḥazm's discussions of the participation of women in public life and of the mild punishment that is to be meted out to men engaging in homosexual acts.

The overall impression one gets when reading *The Zāhirīs* is that Goldziher was fascinated by the literalists, but that he had very little sympathy for them. He was intrigued by their uncompromising adherence and commitment to the word of God as He had spoken it, and at the same time positively repelled by what he regarded as their irrational and inhumane strictness. Goldziher praises the four Sunni schools of law for adapting to the requirements of daily life, and for making certain allowances rendering it easier for the believers to comply with the law. He speaks with admiration of their humanity, in the interest of which they were prepared to invent traditions and bend

<sup>6</sup> Unfortunately, more than 120 years after the publication of Goldziher's book this situation has remained virtually unchanged.



the hermeneutical rules. This kind of consideration is completely alien to the Zāhirī, who were thus deprived of the “humanistic blessings” of the other *madhāhib*, says Goldziher.

That he had a certain bias against the Zāhirī *madhhab* as a whole, and Ibn Ḥazm in particular was argued by Snouck Hurgronje in a letter to his friend, as well as in his review of *Die Zāhirīen*.<sup>7</sup> He wonders whether it is really so, as Goldziher states, that the literalists were more prone to hair-splitting casuistry than the members of other schools.

Throughout his career Goldziher remained interested in the Zāhirīs and their famous Andalusī protagonist, whose works he kept on rereading. He wrote encyclopaedia articles about Dāwūd b. ‘Alī, the founder of the *madhhab* (1911), and Ibn Ḥazm (1914); in a short article from 1901 he made a comparison between the hermeneutical principles of the Zāhirīs on the one hand, and the Karaite Jews on the other; he discussed Ibn Ḥazm as a possible source of the thought of the Almohad Mahdī Ibn Tūmart in a lengthy article from 1887, as well as in his *Le livre de Mohammed ibn Tūmert* (1903). In 1915 he wrote a detailed review of Pérot’s edition of Ibn Ḥazm’s treatise on love, *Tawq al-ḥamāma*, a work which absolutely delighted him, and which, together with the author’s ethical treatise *Kitāb al-akhlāq wa-l-siyar*, which he seems to have read in 1908, helped him see Ibn Ḥazm in a more positive light.

### *Zāhirism after Die Zāhirīen*

*The Zāhirīs* is of lasting value for the history of orientalist scholarship, for the study of Islamic law and, of course, the study of the literalist school, as it constitutes the starting point for much subsequent research on this dissident *madhhab*. The past decades have witnessed a boom of publications on different aspects of Zāhirī legal thought, especially that of Ibn Ḥazm, both in the Muslim world and in the West, and many of them were inspired by Goldziher’s book.<sup>8</sup> *The Zāhirīs* contains some tantalizingly short sections on topics that require closer examination,

such as the similarities and differences between the Ḥanbalī and Zāhirī schools, and the fact that contrary to what might perhaps have been expected, quite a number of Sūfīs embraced the principles of the Zāhirī school in jurisprudence.

But not only historians of Islamic law have rediscovered the Zāhirī school. For several decades now, a fierce polemic has been raging in the Middle East about the question whether performing and listening to music are allowed. The most prominent partisan of the lenient view is Shaykh Yūsuf al-Qaradāwī, whose views are accepted by millions of Muslims throughout the world, and who explicitly quotes Ibn Ḥazm as his authority on this point. When Goldziher wrote that the Zāhirīs were soon considered irrelevant, and that their opinions were not taken into account when establishing the consensus of legal scholars, he could not have guessed to what extent Muslims in the modern period would derive inspiration from their principles and points of view.

Camilla Adang

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<sup>7</sup> C. Snouck Hurgronje, “Ignaz Goldziher, *Die Zāhirīen*”, *Literatur-Blatt für orientalistische Philologie* 1 (1883–1884), 417–429.

<sup>8</sup> Some recent additions to the bibliography on Zāhirism which supplement Goldziher’s findings are Abdel-Magid Turki, “al-Zāhirīya”, *IEJ*, 2nd ed., XI, 394–396; Lutz Wiedenhof, “Legal-Religious Elite, Temporal Authority, and the Caliphate in Mamluk Society: Conclusions Drawn from the Examination of a ‘Zāhirī Revolt’ in Damascus in 1386”, *International Journal of Middle East Studies* 32 (1999), 203–235; Christopher Melchert, *The formation of the Sunni schools of law, 9th–10th centuries CE* [Studies in Islamic Law and Society 4] Leiden, New York, Köln: Brill, 1997, Chapter Nine; Devin Stewart, “Muḥammad b. Dāwūd al-Zāhirī’s Manual of Jurisprudence: *Al-Muṣṭalāḥ ma’rifat al-ḥaṣil*”, in Bernard G. Weiss (ed.), *Studies in Islamic Legal Theory* [Studies in Islamic Law and Society, 15] Leiden, Boston, Köln: Brill, 2002, 99–158; *id.*, “The Structure of the *Fihrist*: Ibn al-Nadīm as Historian of Islamic Legal and Theological Schools”, *International Journal of Middle East Studies* 39 (2007), 369–387 (esp. pp. 371–377); Adam Sabra, “Ibn Ḥazm’s Literalism: A Critique of Islamic Legal Theory (I)”, *Al-Qanṭara* XXVIII (2007), 7–40; Camilla Adang, “Zāhirīs of Almohad Times”, in Maribel Fierro and María Luisa Avila (eds.), *Estudios Onomástico-Biográficos de al-Andalus*, X: *Biografías almohades. II*, Madrid, Granada: CSIC, 2000, 413–479, *ead.*, “Women’s Access to Public Space according to *al-Muḥallā bi-l-ṭibāṭ*”, in Manuela Marín and Randi Deguilhem (eds.), *Writing the Feminine: Women in Arab Sources*. London, New York: I.B. Tauris, 2002, 75–94, *ead.*, “Ibn Ḥazm on Homosexuality: A Case-Study of Zāhirī Legal Methodology”, *Al-Qanṭara* XXIV (2003), 5–31; *ead.*, “The Beginnings of Zāhirism in al-Andalus”, in: Peri Bearman, Rudolph Peters, and Frank E. Vogel (eds.), *The Islamic School of Law: Evolution, Devolution, and Progress* [Harvard Series in Islamic Law] Cambridge, Mass.: Harvard University Press, 2005, 117–125, 241–244; *ead.*, “The Spread of Zāhirism in al-Andalus in the Post-Caliphal Period: The evidence from the biographical dictionaries”, in: Sebastian Günther (ed.), *Ideas, Images, and Methods of Portugal. Insights into Classical Arabic Literature and Islam*. Leiden, Boston, Köln: Brill, 2005, 297–346; *ead.*, “This day have I perfected your religion for you: A Zāhirī conception of religious authority”, in: Gudrun Krämer and Sabine Schmidtke (eds.), *Speaking for Islam. Religious Authorities in Muslim Societies*. Leiden: Brill, 2006, 15–48.